

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

SEP 25 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re the Application of)
)
GTE CALIFORNIA INCORPORATED)
)
For authority pursuant to Section 214)
of the Communications Act of 1934,)
as amended, to continue the provision)
of video channel service in Cerritos,)
California)

File No. W-P-C-7097
CC Docket No. 94-81

DOCKET FILE COPY ORIGINAL

**REPLY COMMENTS OF GTE CALIFORNIA INCORPORATED
IN OPPOSITION TO PETITION TO DENY**

The GTE Telephone Operating Companies, on
behalf of GTE California Incorporated

John F. Raposa, HQE03J27
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015-2092
(214) 718-6969

David J. Gudino
1850 M Street, N.W.
Suite 1200
Washington, DC 20036
(202) 463-5212

September 25, 1995

Their Attorneys

No. of Copies rec'd
List ABCDE

024

TABLE OF CONTENTS

	<u>PAGE</u>
SUMMARY	ii
I. Introduction.....	1
II. What <i>Is</i> , and Is <i>Not</i> , At Issue In This Proceeding	3
III. The Section 214 Authority Requested By GTECA Is Clear	5
IV. Grant of GTECA's Application Is In the Public Interest	7
A. The Commission Should Not Expand Section 214 Proceedings to Examine the Use to Which a Customer May Make of Carrier's Service Offering	8
B. Apollo's Interests Are Not Negatively Impacted By GTECA's Application	10
C. GTECA's Facilities Should Not Be Made to Lie Fallow	12
D. Service Corp. Is Prepared to Obtain a Franchise, and the City Is Prepared to Grant a Franchise, If One Is Required	13
V. Conclusion	14

SUMMARY

A grant of GTE California's Section 214 authority to continue the provision of video channel service to a customer in Cerritos, California is unquestionably in the public interest. Indeed, to deny the instant Application would result in the needless discontinuance of services that the residents of Cerritos are currently utilizing and are desirous of continuing. To the extent the Commission finds that permanent authority to continue the provision of 39 channels of video channel service to Apollo Cablevision is warranted, it must also reach an identical public interest finding with respect to the thirty-nine channels provided to GTE Service Corp. since, from the carrier's perspective, both video channel service offerings are identical. More particularly, GTECA is providing video channel services to both parties in Cerritos under lawfully filed tariffs under which the charges have been designed to recover all of GTECA's regulated investment of the Cerritos network, thereby ensuring that no ratepayers of GTECA's telephony related services will be negatively impacted by the ongoing operation of the Cerritos broadband system.

What *is* at issue in this proceeding is whether GTECA's continued provision of video channel service is in the public interest. What is *not* at issue is the uses to which a customer might put the service. Contrary to Apollo's contentions, the success or failure of Service Corp.'s video offerings, as well as whether Service Corp. might someday in the future alter these offerings, have no bearing on whether GTE California's ongoing provision of video channel service is in the public interest.

If GTECA is denied Section 214 for the facilities in question, they will lie idle. GTECA will have no lawful authority to provide them to *any* customer, whether Service

Corp., Apollo or someone else. Certainly, the public interest is served by allowing the existing customer, which is ready, willing and able to pay a fully compensatory price for the capacity which it utilizes, to continue to be served by the carrier.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED
SEP 25 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re the Application of)	
)	
GTE CALIFORNIA INCORPORATED)	File No. W-P-C-7097
)	CC Docket No. 94-81
)	
For authority pursuant to Section 214)	
of the Communications Act of 1934,)	
as amended, to continue the provision)	
of video channel service in Cerritos,)	
California)	

**REPLY COMMENTS OF GTE CALIFORNIA INCORPORATED
IN OPPOSITION TO PETITION TO DENY**

GTE California Incorporated (GTECA) respectfully submits these Reply Comments in Opposition to the petition to deny submitted by Apollo CableVision, Inc. (Apollo) in the above-captioned proceeding.¹ As set forth below, GTECA's application to continue the provision of video channel service in Cerritos is well-taken and should be granted expeditiously.

I. Introduction.

On July 28, 1995, GTECA requested authority pursuant to Section 214 of the Communications Act of 1934, as amended, and Part 63 of the Commission's Rules, to continue the provision of video channel service to a customer in Cerritos, California. In an order released August 14, 1995, the Bureau granted GTECA temporary authority,

¹ In an obvious and disingenuous attempt to expend the pleading cycle, Apollo has captioned its pleading as a "petition to deny" when it is simply an opposition to GTECA's application. As such, the filing of further pleadings on this application by Apollo should be rejected without prior Commission permission.

similar to that previously granted with respect to the provision of service to Apollo, to continue to provide channel service to Service Corp. while this application is pending. These actions have enabled GTECA to continue to provide video channel service over its existing broadband network to Service Corp., thereby ensuring the continued provision of Center ScreenSM and GTE mainStreet⁷ services to Cerritos residents.

On September 13, 1995, Apollo submitted its opposition GTECA's Application. In its opposition, Apollo alleges that GTECA's request for authority is broader than that previously granted by the Commission to GTECA, that the offering which Service Corp. makes to Cerritos residents constitute a waste of channel space, that a grant of the authority would breach non-competition provisions of certain pre-existing contracts, and that Section 214 authority cannot be granted since Service Corp. has not yet obtained local franchise authorization from the City of Cerritos.

As GTE demonstrated in its Application and below, grant of Section 214 authority in this instance is unquestionably in the public interest. Indeed, to deny the instant Application would result in the needless discontinuance of services that the residents of Cerritos are currently utilizing and are desirous of continuing. Simply stated, there exists no logical reason to deny Section 214 authority for GTECA's operation of one-half of the Cerritos system while allowing operating authority to continue for the other. To the extent the Commission finds that permanent authority to continue the provision of 39 channels of video channel service to Apollo is warranted, it must also reach an identical public interest finding with respect to the thirty-nine channels provided to Service Corp. From the carrier's perspective, both video channel service offerings are identical. Both incorporate the same transport and head-end facilities between the head-end location and the demarcation point at subscriber's

premises. Most importantly, both allow for proper recovery of GTECA's investment because the customers pay equivalent cost-based prices for their respective thirty-nine channels.

II. What *is*, and *Is Not*, At Issue In This Proceeding.

Apollo is correct that there are several matters which are at issue in this application, and several matters which are not. What *is* at issue is whether GTECA's continued provision of video channel service is in the public interest. What is *not* at issue is the uses to which a customer of might put the service. Apollo cites no authority for the erroneous proposition that the Commission should -- or even may under Section 214 -- look beyond the service proposed to be provided by a carrier and instead undertake an in-depth examination of the uses to which the carrier's customers will make of the service. Thus, what *is* at issue is whether half of the Cerritos network bandwidth will forced to lie fallow and GTECA will consequently be unable to recoup its substantial investment in these facilities.

What is *not* an issue (at least at this time) is GTECA's authority to continue the provision of video channel service to Apollo. Like GTECA's authority to provide service to its affiliate, GTECA's authority under the original *Cerritos Order*² with respect to Apollo also expired on July 17, 1995. However, the Bureau has temporarily extended this authority until the conclusion of the tariff investigation proceeding.³ No such similar

² *In re General Telephone Company of California*, 4 FCC Rcd 5693 (1989), remanded sub nom. *National Cable Television Association v. F.C.C.*, 914 F.2d 285 (D.C.Cir. 1991).

³ *In re GTE Telephone Operating Companies*, 9 FCC Rcd 3613 (Com.Car.Bur. 1994), applications for review pending (*Cerritos Tariff Order*).

extension was granted as to GTECA's authority with respect to Service Corp.,⁴ and hence GTECA timely filed this application. At the conclusion of the tariff investigation GTECA will, if appropriate, seek further Section 214 authority with respect to the continued provision of service for Apollo.⁵

Apollo is correct that "First Amendment rights ... are not involved in [] [this] application"⁶ at least to the extent that the Commission may not deny the instant application on the basis of the telephone company - cable television cross-ownership

⁴ *In re GTE Telephone Operating Companies*, 9 FCC Rcd 5229 (Com.Car.Bur. 1994) (*Transmittal 909 Suspension Order*); *In re GTE Telephone Operating Companies*, DA 95-1679 (Com.Car.Bur. released July 28, 1995) (*July 28, 1995 Order*); *In re GTE Telephone Operating Companies*, DA 95-1769 (Com.Car.Bur. released August 14, 1995) (*Supplemental Designation Order*).

⁵ Apollo appears to be under the erroneous misapprehension that GTECA's Section 214 authority to provide service to Apollo somehow did not expire on July 14, 1994. However, the *Cerritos Order* only granted *one* Section 214 authority as to the services provided over Cerritos' coaxial network. (GTECA had submitted a separate Section 214 application with respect to the fiber facilities, but these are not at issue here.) Subsequent orders of the Bureau temporarily extended GTECA's Section 214 authority with respect to Apollo and Service Corp., for varying lengths of time. *Cerritos Tariff Order* (Section 214 authority with respect to Service Corp. extended for 60 days but Section 214 authority with respect to Apollo extended until conclusion of the tariff investigation); *Supplemental Designation Order* (Section 214 authority with respect to Service Corp. extended until Commission action on the instant application).

⁶ Petition, at 4.

ban.⁷ Apollo is also correct that GTECA is not seeking video dialtone⁸ authority with respect to Cerritos,⁹ but rather authority to continue the provision of video channel service over facilities that have been used for this purpose since 1989.

III. The Section 214 Authority Requested By GTECA Is Clear.

By the instant application, GTECA seeks to provide video channel service to a customer -- Service Corp. -- nothing more and nothing less. GTECA stated, quite unequivocally:

"Video channel service provides the transport facilities between a demarcation point at the head-end (which receives video signals from the video services providers) to the demarcation point at the subscriber's premises. The associated equipment and facilities consist of head-end equipment, outside plant facilities, and customer drops. The video channel service to be provided by GTECA to Service Corp. has an overall capacity of 39 analog video channels."

Application, at 4.¹⁰ There is simply nothing unclear about GTECA's request to provide this video signal transport service.

⁷ 47 U.S.C. § 533(b); 47 C.F.R. § 63.54(c); see *GTE South Incorporated v. United States*, No. 94-1588-A (E.D.Va. Jan. 13, 1995); *Chesapeake & Potomac Tel. Co. v. United States*, 42 F.3d 181 (4th Cir. 1994), *cert. granted*, Nos. 94-1893, 94-1900 (U.S. June 26, 1995); *U S West, Inc. v. United States*, 48 F.3d 1092 (9th Cir. 1994). GTECA's and Service Corp.'s First Amendment right would be very much at issue if the Commission violated the District Court's injunction. In addition, the Commission's constitutional and statutory authority to require Section 214 pre-approval where a local exchange carrier (or its affiliate) provides video programming is currently under review. *United States Telephone Association v. F.C.C.*, No. 95-533-A (E.D.Va.).

⁸ *Telephone Company - Cable Television Cross-Ownership Rules*, sections 63-54 - 63-58, 7 FCC Rcd 5781 (1992), *recon.* 10 FCC Rcd 5781 (1994), *appeal pending sub nom. Mankato Citizens Telephone Co. v. F.C.C.*, No.92-1404 (D.C.Cir.).

⁹ Petition, at 4.

¹⁰ See *In re General Telephone Co. of California*, 13 FCC2d 448 (1968) for a more thorough description of channel service.

While in its application GTECA describes the current uses to which Service Corp. puts the channels provided,¹¹ GTECA has made no representations as to the uses which Service Corp. may make of these channels in the future. That is a matter to be determined by Service Corp., not GTECA. Of course, there is no doubt that denial of GTECA's application would cause a termination of Service Corp.'s present video offerings to Cerritos' residents, since Service Corp. would then be without transport facilities over which to deliver its offerings. Such a termination of service would therefore be contrary to the public interest.

Apollo's citation to the original *Cerritos Order's* Section 214 grant of authority as (somehow) being material to this application is simply misplaced.¹² The conditions of Service Corp.'s programming set forth in the *Cerritos Order* were necessary to effectuate the Commission's telephone company - cable television cross-ownership policy then in effect. But since the ban of telephone company provision of video programming has now been declared unconstitutional, the *raison d'etre* for the *Cerritos Order's* conditions is not longer applicable.¹³ Indeed, to impose such conditions today would place the Commission in violation of the Court's January 13, 1995 injunction.¹⁴

¹¹ Application, at 4 (referencing Service Corp.'s current provision of Center Screen and mainStreet).

¹² Petition, at 4-5 & n. 1.

¹³ GTECA does not herein respond to Apollo's assertion that GTECA's current Section 214 authority with respect to Service Corp. "is no broader than its initially authority" since Service Corp. is not currently providing any video services different from those which it offered prior to July 17, 1994. To the extent that Service Corp. is doing nothing different, Apollo raises a question of (perhaps) academic interest, but one which is not material to the pending application.

¹⁴ See n. 7.

Simply stated, the instant application is *not* a "request to perpetuate Service Corp.'s current services",¹⁵ but simply a request that GTECA be permitted to make use of its facilities continue the provision of video channel service.

IV. Grant of GTECA's Application Is In the Public Interest.

In evaluating a Section 214 application, the Commission is charged with the responsibility of determining whether the facilities for which Section 214 authority is requested will serve the "public convenience and necessity". 47 U.S.C. § 214(a). The focus of a Section 214 review has typically been to "ensure that carriers [prudently invest in equipment so as to avoid waste and unreasonably high rates for telephone ratepayers."¹⁶ In this case, GTECA has demonstrated that the continued provision of video channel service in Cerritos is in the public interest in that it allows both Apollo and Service Corp. to provide cable television and other video and interactive services to the residents of Cerritos in the manner in which they have been provided for more than six years. More particularly, GTECA is providing video channel service to both Apollo and Service Corp. pursuant to a lawfully filed tariffs under which the charges have been designed to recover all of GTECA's regulated investment of the Cerritos network, thereby ensuring that no ratepayers of GTECA's telephony related services will be negatively impacted by the ongoing operation of the Cerritos broadband system.

¹⁵ Petition, at 7.

¹⁶ See *In re Contel of Virginia, Inc., doing business as GTE Virginia*, File Nos. W-P-C-6955, 6956, 5957, 6958, Order and Authorization, DA 95-1012, released May 5, 1995, at ¶¶ 42, 43.

Apollo's opposition to GTECA's Application, has virtually nothing to do with whether the provision of channel service by GTECA is in the public interest, but everything to do with its efforts to force a discontinuance of Service Corp.'s use of the system and obtain all of the network's 78 channels for itself. However, if the Commission denies GTECA's application, as Apollo advocates, not only would GTECA be prohibited from providing the video signal transport to Service Corp. on the facilities at issue, GTECA would also be prevented from providing these facilities to Apollo, or any other user, as well. Thus, one half of GTECA's \$12 million investment in Cerritos would lie fallow and GTECA would be unable to recoup its investment. Certainly, the public interest is served by allowing the existing customer, which is ready, willing and able to pay a fully compensatory price for the capacity which it utilizes, to continue to be served by the carrier.

A. The Commission Should Not Expand Section 214 Proceedings to Examine the Use to Which a Customer May Make of Carrier's Service Offering.

Apollo's petition is little more than a demand that the Commission expand the scope of Section 214 proceedings and delve into the uses to which a carrier's customer will put the services offered by the carrier. Apollo cites no authority for such a novel proposition and the broad expansion of the Commission's responsibilities it would entail, nor could it.

The instant Application requests authority to continue the provision of video channel service to Service Corp., and nothing more. The success or failure of Service Corp.'s video offerings, as well as whether Service Corp. might someday in the future alter these offerings, have no bearing on whether GTECA's ongoing provision of video channel service is in the public interest. The Commission has never been compelled to

base Section 214 authorizations upon the consideration of what services a customer decides to offer on the facilities provided by a carrier, nor to evaluate the expected market viability of a customer's services. So long as the carrier can demonstrate that demand for the underlying facility will exist for a reasonable period, and that cost-based charges will be paid by the requesting customer over that time period, construction, and/or operation, of the facility is economically justified. The uses to which a customer currently puts the carrier's service offering, or might do so in the future, is immaterial to this evaluation.¹⁷

In this case, Service Corp. has timely paid monthly lease charges to GTECA, initially under a private lease arrangement, and now under tariff, for over six years. There is nothing to suggest that Service Corp.'s payments will somehow cease or that GTECA will not recover the associated investment it has made in the network if the provision of video channel service is continued.¹⁸

Ironically, both Apollo and the City demanded that Service Corp. continue its offerings after release of the *Remand Order*,¹⁹ arguing that the residents of Cerritos

¹⁷ The Commission has considered a customer's services to the extent that a carrier's provision of service would not place it in violation of the Telephone Company - Cable Television Cross-Ownership prohibition. But Apollo does not argue -- nor could it -- that GTECA's continued provision of video channel service to Service Corp. is unlawful. Thus, the evaluation of customer services made by the Commission is enforcing the Cross-Ownership ban, and its implementing regulations, has no place here. At best (or, perhaps, worst), Apollo has attempted to drag the Commission into a contractual dispute over the non-compete provisions of the pre-existing contracts. See discussion at Part IV.B, below.

¹⁸ Unlike Service Corp., Apollo has failed and refused to pay tariffed charges, which does place GTECA's investment at risk. GTECA is currently seeking recovery of these charges from Apollo.

¹⁹ *In re General Telephone Co. of California*, 8 FCC Rcd 8178 (1993).

would not tolerate the elimination of Service Corp.'s Center Screen service. In reality, despite Apollo's self-serving speculation,²⁰ Service Corp.'s offerings are quite viable. For example, even though Service Corp. does very little marketing, the monthly "buy rate" for Center Screen -- the benchmark used by the industry -- is higher than the national average. The fact is that Apollo covets Service Corp.'s channels for itself, and is utterly disinterested in the viability of Service Corp.'s offerings.²¹

B. Apollo's Interests Are Not Negatively Impacted By GTECA's Application.

Apollo points to the non-compete clause in two of the agreements pre-dating conversion of GTECA's provision of service from a contract-basis to a tariffed arrangement in accordance with the Act and the Commission's Rules.²² The first, between GTECA and Apollo, requires that GTECA will not "compete with Apollo ... in the provision of Video Programming." Lease Agreement, Amendment No. 2, ¶ 7(a).²³ Apollo points to this provision and declares that the video transport provided by GTECA under the pending application would be a "direct breach" of this agreement. Apollo is wrong, for (at least) two reasons.

²⁰ See Petition, at 10.

²¹ Apollo's attempts to derail Center Screen are historic in nature. For example, in violation of the pre-existing Installation Agreement, Apollo refused to install TIM units in many homes, which meant that Service Corp.'s offerings could not be made available to these customers.

²² Petition, at 12.

²³ This provision is now included in the tariff submitted for Apollo. See Transmittal No. 873, Section 18.4(a)(3).

First, Apollo has selectively omitted reference to the proviso to this clause contained in ¶ 7(b),²⁴ which specifically permits GTECA to comply "as a carrier, with any access obligations to video programmers." Consistent with this proviso, GTECA has been providing video signal transport to Service Corp. for more than six years. Apollo's sudden demand that GTECA's service be terminated on the basis of the non-compete clause is incongruous with the history of GTECA's provision of service to which Apollo had not heretofore objected.

Second, the non-compete clause *only* restricts GTECA's "provision" of video programming, not the transport (carriage) of video signal which might include video programming. As the Court of Appeals recently made clear in affirming the Commission, video signal carriage is not the equivalent of the providing video programming. *National Cable Television Association v. F.C.C.*, 33 F.3d 66, 73-74 (D.C.Cir. 1994). Rather, video programming is provided (if at all) by video programmers making use of a carrier's transport service -- here, Apollo and Service Corp. Indeed, for this obvious reason, Apollo entered into a *separate* non-compete agreement with Service Corp. If GTECA was prohibited under its non-compete clause from providing video signal carriage to Service Corp., then Apollo's separate agreement with Service Corp. would be a meaningless gesture.

²⁴ Apollo's selective rendition of facts, and omission of material facts, has become a disturbing tendency in these proceedings. See *In re GTE Telephone Operating Companies*, Transmittal Nos. 874, 909, 918, CC Docket No. 94-81, Supplemental Rebuttal of GTE, September 21, 1995, at 18 n. 47. While Apollo may not willfully be attempting to mislead the Commission, the effect of its actions could very well be the same.

As to the non-compete clause between Apollo and Service Corp.,²⁵ whether Service Corp.'s offerings currently violate -- or may sometime in the future violate -- this provision, that is a matter between Apollo and Service Corp., over which GTECA exercises no control. Indeed, in its state court litigation, Apollo has specifically alleged that Service Corp.'s continuation of Center Screen and mainStreet violates this non-compete clause.²⁶ Quite disingenuously, Apollo essentially asks the Commission to prejudge the outcome of that litigation by finding that the carrier's customer -- *not* the carrier itself -- would be violating an agreement with a third party if the customer made a particular use of the carrier's service. As the Commission has repeatedly made clear, it will not be forced into the position of an adjudicator of such contractual disputes.

C. GTECA's Facilities Should Not Be Made to Lie Fallow.

Implicit in Apollo's petition is the assumption that if this application is denied, Apollo will somehow receive the use of Service Corp.'s channels in order to provide programming of its own choice. There is no basis for this mistaken assumption.

If GTECA is denied Section 214 for the facilities in question, they will lie idle. GTECA will have no lawful authority to provide them to *any* customer, whether Service

²⁵ Enhanced Capability Decoder (Converter Box) Agreement, ¶ 2(d).

²⁶ Apollo Cable Vision, Inc. v. GTE California Incorporated, GTE Service Corporation, No. CIV 142800 (Cal. Super. Ct., Ventura Cty.), Second Amended and Supplemental Complaint, ¶ 42. Apollo's claim in this respect is also without merit. Once more Apollo has selectively quoted the underlying agreement and materially omitted a proviso which specifically permits Service Corp. to provide VOD and NVOD services. For a further discussion on this matter, *see In re GTE Telephone Operating Companies*, Transmittal Nos. 874, 909, 918, CC Docket No. 94-81, Supplemental Rebuttal of GTE, September 21, 1995, at 13-16.

Corp., Apollo or someone else. Indeed, the right of first refusal contained in the tariff submitted for Apollo²⁷ would not be triggered because this bandwidth would remain *unavailable* for use by any customer.^{28, 29}

D. Service Corp. Is Prepared to Obtain a Franchise, and the City Is Prepared to Grant a Franchise, If One Is Required.

In perhaps its most disingenuous argument, Apollo contends that GTECA's application should be denied because Service Corp. does not have a cable franchise.³⁰ In nearly the same breath, however, Apollo claims that the obtaining of such a franchise by Service Corp. would place Service Corp. in violation of the non-compete clause.³¹ To Apollo's mind, apparently, GTECA is faced with a Catch 22: either require Service Corp. to obtain a franchise which would (according to Apollo) place Service Corp. in breach, or deny service to Service Corp. thereby terminating its offerings to the residents of Cerritos and causing GTECA's facilities to lie idle with no recovery of investment. The Commission simply cannot countenance such machinations on Apollo's part.

²⁷ Transmittal No. 873, Section 18.4(A)(4). *See* the pre-existing Lease Agreement, Amendment No. 2, ¶ 8.

²⁸ For a discussion of Apollo's rights under the provision, *see In re GTE Telephone Operating Companies*, Transmittal Nos. 874, 909, 918, CC Docket No. 94-81, Comments of GTE, September 15, 1994, at 15-16.

²⁹ As denial of this application would cause GTECA's facilities to go unused, and disable GTECA from recouping its investment, such action would constitute an unconstitutional taking of GTECA's property.

³⁰ Petition, at 13-14.

³¹ *See In re GTE Telephone Operating Companies*, Transmittal Nos. 874, 909, 918, CC Docket No. 94-81, Supplemental Rebuttal of GTE, September 21, 1995, at 15-16.

In the first instance, Service Corp. is not required to obtain a cable franchise, at least with respect to the services which it currently offers.³² However, even this is not the case, Service Corp. is fully prepared to obtain a cable franchise and the City is prepared to grant one. Service Corp. and City representatives have already discussed this matter and are prepared to proceed, if and when this becomes necessary. The City, quite reasonably, has been reluctant to proceed at this point until the necessity for a franchise is finally determined.³³ The City also likely is reticent about being dragged into litigation by Apollo. Therefore, when a final determination is made as to the necessity of a franchise, Service Corp. will contact the City and they will proceed accordingly.

V. Conclusion.

For the reasons stated herein, and those more fully set forth in its Application, the Commission should grant authority, pursuant to Section 214 of the Act, to permit GTECA to continue the provision of video channel service to an affiliate in Cerritos, California.

³² See Correspondence from John F. Raposa, Esq. to Mr. A. Richard Metzger, Jr., June 14, 1994, at 5-6.

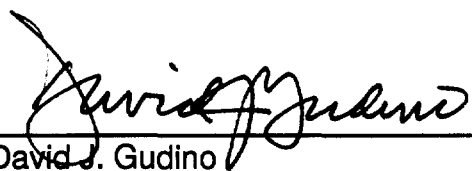
³³ See *In re GTE Telephone Operating Companies*, Transmittal Nos. 874, 909, 918, CC Docket No. 94-81, Supplemental Opposition of Apollo CableVision, Inc., September 11, 1995, at Attachment 2 ("Due to the legal and regulatory uncertainties surrounding GTE's provision of video programming, the City will not proceed with the franchising process for GTE [Service Corp.] at this time. We will hold this franchise payment, as we have the previous payment, until clearer direction is provided by the Federal Communications Commission and/or the courts.")

Respectfully submitted,

The GTE Telephone Operating Companies, on
behalf of GTE California Incorporated

John F. Raposa, HQE03J27
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015-2092
(214) 718-6969

By




David J. Gudino
1850 M Street, N.W.
Suite 1200
Washington, DC 20036
(202) 463-5212

September 25, 1995

Their Attorneys

Certificate of Service

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Reply Comments of GTE California Incorporated in Opposition to Petition to Deny" have been mailed by first class United States mail, postage prepaid, on the 25th day of September, 1995 to all parties of record.


Judy R. Quinlan